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(1)

Supreme Court, U.S.
FILED

081005 FEB 2 - 2009

OFFICE OF THE CLERK

No. _____

IN THE

Supreme Court of the United States

Janet A. Adams

Petitioner

v.

Judith A. Goldsmith

Respondent

On Petition For Writ of Certiorari
To The District Court of Appeal, First District,
Tallahassee, Florida

PETITION FOR WRIT OF CERTIORARI

Janet A. Adams
Pro Se
2936 N. Kristopher Bend
St. Charles, MO 63303
314-566-7353

QUESTIONS PRESENTED FOR REVIEW

1. Did the state appeal court err in taking away petitioner's Constitutional rights to due process, guaranteed by the 5th and 14th amendments, by affirming the lower tribunal (L.T.) decision to not reopen petitioner's case and set aside its judgment when the L.T. judge failed to follow due process and was deceived by 'fraud upon the court' into believing petitioner had waived a hearing?

2. Is a state court judge, DCA or L.T., required to set aside a decision when the judge becomes aware that a decision has violated a petitioner's U.S. Constitutional right to due process because 'fraud upon the court' occurred?

TABLE OF CONTENTS

TABLE OF CITED AUTHORITIES

CITATIONS OF OPINIONS AND ORDERS

- 1/8/08, Nassau County, Florida Circuit Court order with no written opinion. Appealed to DCA (Appendix A)
- 9/29/08, DCA Florida order with no written opinion. To be reviewed. (Appendix B)
- 11/6/08, DCA Florida order denying a rehearing and a written opinion (Appendix C)

BASIS FOR JURISDICTION

The court has jurisdiction under 28 U.S.C. §1257 to review a final judgment dated **9/29/08**, with denial of rehearing dated **11/6/08,** on a writ of certiorari, which order was rendered by the highest court of a state in which a decision could be had and where that judgment involves a question of U.S. constitutional law, denying petitioner due process guaranteed in 5th and 14th amendments.

In The Florida Star v. B.J.F., 530 S. 2d 286, the Florida Supreme Court specifically noted that an appellant may bypass the Florida Supreme Court and appeal directly to the U.S. Supreme Court when seeking review of a Per Curiam Affirmed (PCA). Id. at 288.n. 3. The Court noted that a "district court decision rendered without opinion or citation constitutes a decision from the highest state court empowered to hear the case." *Id. at 288 n. 3.*

CONSTITUTIONAL INVOLVEMENT

A. Denying petitioner due process is unconstitutional per the U.S. Constitution, as follows:

14th amendment, section 1. "*...nor shall any State deprive any person of life, liberty, or property, without due process of law;* nor deny to any person within its jurisdiction the equal protection of the laws."

5th amendment. "*... nor be deprived of life, liberty, or property, without due process of law;*"

STATEMENT OF THE CASE

A. A BRIEF OVERVIEW OF THE CASE

Petitioner filed objections to guardian's dismissal and final report (1/31/06). She then hired an attorney who subsequently submitted a paper to the court (7/6/06) signed only by attorneys [in violation of Fla. R. Civ. P. 1.420 and Fed. R. Civ. P. 41]. The attorney swore petitioner had agreed to waive a hearing [when she had not – see petitioner's affidavit] and the attorney failed to provide the court with any evidence showing that petitioner had agreed.

The paper petitioner's attorney filed [Appendix E] deceived the court (i.e. "fraud upon the court") and the lower tribunal (L.T.) court dismissed the case with prejudice (7/7/06), taking away petitioner's due process rights to have her case heard and decided on

the issues, guaranteed by 5th and 14th amendment to U.S. Constitution.

Petitioner's attorney knew he needed petitioner's agreement in writing and sought petitioner's signature after the paper was filed and the order was entered. Petitioner refused to sign.

Petitioner filed a new case against respondent. The new case had one hearing on 11/30/07, which only concerned respondent's Motion to Dismiss.

Petitioner pled 'fraud upon the court' in this first L.T. hearing and that the order entered is void and should be set aside, bringing up the federal question of her loss of due process as guaranteed by the U.S. Constitution.

This L.T. judge said the 'objections case' L.T. judge that entered the order, is the court to handle setting aside an order after 'fraud upon the court.'

Petitioner motioned 'objections case' L.T. to reopen case and set aside the void order and L.T. denied those motions (1/8/08) with no written opinion given. The 'new case' L.T. judge that sent petitioner to the 'objections case' judge did allow the new case to be continued while the federal question of petitioner losing due process is under appeal.

Petitioner then appealed to DCA in Florida, who issued Per Curiam Affirmed decision with no written opinion given (9/29/08) and denied a hearing (11/6/08).

The Florida Supreme Court is not empowered to hear any case where no written opinion is given, therefore, petitioner seeks review of the DCA order by the U.S. Supreme Court.

B. MORE DETAIL ABOUT THIS CASE

The 'objections case' began when respondent first filed on 1/6/06 to be discharged as guardian and filed a final report which was incomplete. Since guardian was in violation of Florida Statutes §744, petitioner filed 'objections' on 1/31/06, and did not find an attorney until mid-April 2006.

The 'objections case' was dismissed 7/7/06 and the guardian discharged (Appendix F) after both attorneys signed false statements (Appendix E) and filed the paper with the court.

This dismissal was without petitioner's permission, and was hidden from petitioner, i.e. her own attorney never informed her that the case had been dismissed.

The L.T. judge was deceived because he failed to ask to see evidence that petitioner agreed to: (1) waive a hearing, (2) settle the case, (3) withdraw objections, and (4) dismiss the case with prejudice. He also dismissed the case even though **Fla. R. Civ. P. 1.420 and Fed. R. Civ. P. 41** both require that all parties sign a voluntary dismissal as a way to protect against the loss of due process.

Guardian distributed none of the ward's property to the two main beneficiaries prior to her discharge as guardian on7/7/06. Lack of

distribution is in violation of F.S. §744.361(6)(c) which requires the guardian of property to "*deliver the ward's property to the person lawfully entitled, at the termination of the guardianship*".

Petitioner's case against respondent involves many issues where respondent broke Florida Statutes while guardian.

Petitioner has still received no cash inheritance, as of this date in January 2009, although petitioner's Dad died on December 5, 2005.

Respondent admitted on 11/30/07 in front of another judge, that she owes petitioner $106.512.86 plus interest for cash inheritance. The same 'objections case' (L.T.) judge has not acted on motions to get respondent to pay.

Petitioner learned of the 7/7/06 order (Appendix F) late in October 2006 in a judge's letter.

Petitioner followed the judge's suggestion in the letter, contacted the Florida Bar, and then followed their advice. She wrote both attorneys and asked them to correct their wrongful action by 11/15/06.

Petitioner's attorney never replied. He quit the case back on 8/28/06, telling the opposition he quit 3 days before he informed his own client.

Respondent continued to offer deals about distribution of inheritance to petitioner. Keep in mind that inheritance should have been completely distributed at the time of the guardian's discharge on 7/7/06 per F.S. §744.361(6)(c).

Respondent's final offer for distributing

inheritance was presented in writing on November 1, 2006 and included asking petitioner to **agree to NOT REPORT EITHER OF THE ATTORNEYS to the Florida Bar.**

When that offer was turned down, respondent filed a second final report on 11/8/06 and distributed inheritance. HOWEVER, she attached a condition of petitioner agreeing to not pursue any legal action if she cashed her check ($106,512.86), so the check has never been cashed.

Petitioner tried to find another attorney after her attorney quit in late August 2006, contacting hundreds of attorneys, all of whom declined to help with any part of the case, since it involved both a guardian and an attorney who quit.

Petitioner filed a new case on 6/1/07, and the new case added new complaints about matters she only became aware of after getting the 11/8/06 *second* final report.

The first hearing of the new case on 11/30/07 only concerned a Motion to Dismiss. Issues of the case have never been heard in court and the new case is currently continued during appeal.

The U.S. constitutional question of the right to a hearing was brought up first in court on 11/30/07. Petitioner pled in the new case that she did not waive a hearing, did not settle issues of the objections case, and did not agree to withdraw her objections or dismiss the objections case. She showed that 'fraud upon the court' (FUTC) had occurred because her attorney, an officer of the court,

intentionally deceived the court.

The L.T. judge in her new case said the 'objections case' judge that was deceived had to handle the matter.

Petitioner filed motions pro se with the 'objections case' judge to reopen the case and set aside the void order (because petitioner was unable to find any attorney willing to handle even this reopening). **This L.T. judge,** the Honorable Judge Robert M. Foster, **denied all motions** on 1/8/08 with no written opinion (Appendix A) or hearing.

Petitioner appealed to the DCA, 1st District.

On 9/29/08, the DCA ruled using Per Curiam Affirmed, with no written opinion provided (Appendix B and C) after a written opinion and rehearing were both timely requested, and then denied on **11/6/08**.

Petitioner is seeking judicial review, which is part of due process guaranteed by U.S. Constitution. The Florida Supreme Court is not authorized by Florida law to review the case. **Therefore, the only judicial review** available to petitioner now is review by the U.S. Supreme Court.

C. WHEN WERE FEDERAL QUESTIONS RAISED

Review of a state-court judgment is sought, therefore, below are some specific instances when the federal questions were raised in the state court system per U.S. Supreme Court rule 14.1(g)(i).

1. Initial Brief to DCA, 3/08, on page 24 (top) says of the L.T. judge: *"Judge Foster's denial is egregious, is a reversible error, is an abuse of discretion, does not pass the 'reasonable man' test, and is denying Miss Adams the* ***due process guaranteed by the U.S. Const. Amend. XIV, Section 1.***"

2. Initial Brief to DCA, 3/08 page 28 (bottom), says: "Miss Adams is absolutely appalled. To think that officers of the court would go before a Judge and/or file a paper with a blatant lie that is so egregious, it takes away **U.S. Const. Amend. XIV rights given in Section 1 back on July 9, 1868,** 138 years ago, and all for what ... to get out of doing paperwork and practicing law to 'earn' their fee?"

3. Initial Brief to DCA, 3/08 page 40 (bottom) talks of due process from the Honorable Judge Henry Friendly's list and this is federal due process for all citizens: *"Remember, at the top of one of the nation's preeminent appellant judge's list of* ***due process, the list of Judge Henry Friendly****, is the right to have an* ***unbiased tribunal*** *(Law Review article,* ***"Some Kind of Hearing,"*** *1975)."*

4. Initial Brief to DCA, 3/08 page 48 (top), says in the context again of Judge Friendly's article entitled "Some Kind of Hearing" (so it is clear that the due process is federal not state): *"Judge Henry Friendly, one of the nation's preeminent appellant judges, said*

in a Law Review article in 1975 entitled "Some Kind of Hearing", that one thing promised by 'due process' is a decision based exclusively on evidence presented."

5. Reply Brief to DCA, 6/08 on page 9 points out that due process is the U.S. due process and that entry of an order should not violate U.S. due process: "*Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated* ***due process, U.S.C.A. Const. Amend. 5*** *– Triad Energy Corp. v. McNell, 110 F.R.D. 382 (S.D.N.Y. 1986).*"

6. Appellant's Response to Court's Order to Show Cause and Motion to Strike, presented to DCA, 4/08, on page 2: "*In fact since there is clear evidence supporting 'fraud upon the court,' unfairly denying a litigant to have her appeal heard would be an abuse of discretion and a denial of* ***due process under the 14th amendment of the U.S. Constitution***."

7. Appellee's [Respondent's] Answer Brief to DCA, 6/08, did not object to federal questions raised.

8. Initial Brief to DCA, 3/08, on page 2, where the L.T. judge was made aware of his denial of due process, a violation of the U.S. Constitution, by dismissing the case with prejudice when there was no evidence presented to him showing Miss Adams agreed to dismiss the case or waive a hearing: "*In*

1/ 2008, Judge Foster was asked to reopen the old case [R_Motion], and recognize that (a) Miss Adams never agreed to dismiss the case with prejudice, (b) he was deceived by the attorneys, and (c) 'fraud upon the court' occurred, then (d) to set aside the void order."

9. Initial Brief to DCA, 3/08, page 34 says fraud upon the court could have been easily prevented if the

> "*Judge had followed* ***due process in the U.S. Constitution*** *and asked to see evidence [so his decision could be based exclusively on evidence presented which is* ***due process****], or asked Miss Adams to appear before him to hear directly from her, OR if judge had followed* ***federal civil procedures*** *and required all parties to sign* [per **Fed. R. Civ. P. 41**]".

10. Initial Brief to DCA, 3/08, page 37 (bottom) "*Judge's failure to see FUTC [i.e. fraud upon the court] and set aside the void order is clearly against logic of circumstances and is so arbitrary and unreasonable as to shock the sense of justice and indicate a lack of careful consideration*"

11. Motion to Reopen, Motion to Set Aside, Motion to Vacate, or In the alternative, Motion to Change in objections L.T. case, 12/07, page 5: "**Protecting the Court.** Providing proof would have protected the Court from unknowingly participating in **denying plaintiff due process.**"

12. Motion to Reopen, Motion to Set Aside, Motion to Vacate, or In the alternative, Motion to Change in objections L.T. case, 12/07, page 12 (bottom): "Without Mr. Pullum's signature on Exhibit 1, 'fraud upon the court' would not have occurred. Mr. Germano's signature alone would never cause the Court to dismiss a case with prejudice, **taking away the plaintiff's rights to due process.**"

13. Motion to Reopen, Motion to Set Aside, Motion to Vacate, or In the alternative, Motion to Change in objections L.T. case, 12/07, page 16 (bottom):

> "Until the Court acts, plaintiff is being **denied due process** to present her case against the guardian. Now that the Court is aware of the 'fraud upon the court', it is imperative that the Court act to set aside the void Order and **allow this plaintiff's case [No. 07-CA-156] to be heard** in Judge Davis' court."

14. Plaintiff's Response Brief to Motion to Dismiss, 11/07, in new L.T. case, page 8 (bottom) "Case Law makes an order VOID since it was issued by a court where there was 'fraud upon the court' by an officer of the court, or two. The court loses 'subject matter jurisdiction' when **the loss of due process occurs.**"

15. In hearing for Motion to Dismiss new L.T. case, 11/07, petitioner argued that she lost **due process guaranteed by the U.S. Constitution** because of 'fraud upon the court' (see Statement of Case, pages 3 and 6 above).

Petitioner asked judge orally to set aside the void order from the objections case rather than dismiss her new case using res judicata [which would deny her a hearing, and loss of due process].

This L.T. judge refused to set aside the judgment from the objections case but did let the new case stay open after petitioner filed an amended complaint. The new case is currently continued, pending this appeal.

D. STATE COURT HANDLING OF FEDERAL QUESTIONS

The state courts were silent on the federal questions and did not provide any written opinions, although federal questions were properly presented and the state courts had a fair opportunity to address them.

REASONS FOR GRANTING PETITION

A. The decision failed to protect *the right to a hearing* as guaranteed by the due process clause of the 5th and 14th amendments of the U.S. Constitution.

1. This affirmation departs radically from the accepted and usual course of judicial proceedings. It is imperative that neither judges nor attorneys be allowed to remove the basic, accepted principle of the right to a hearing. That right goes back to the days of the Magna Carta and all advanced legal systems include the *right to a hearing*.

2. Any decision that jeopardizes the right to an unbiased hearing needs to be corrected, rather than sanctioned by the DCA. In this case, petitioner never agreed to waive a hearing or dismiss her case, and this Court's supervisory power is essential.

3. As expressed in the foreword in Procedural Due Process, by Rhonda Wasserman,2005, the Honorable Joseph F. Weis, Jr., U.S. Circuit Judge wrote "Justice [Oliver Wendell] Holmes had a knack for expressing important legal doctrine in memorably pithy terms. One of the better examples of this ability is, typically found in a dissenting opinion. "Whatever disagreement there may be as to the scope of the phrase 'due process of law', there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard." *Frank v. Mangum*, 237 U.S. 309, 3476 (1915).

4. In this case the L.T. judge also failed to give a written opinion. The choice to not provide written reasons for the decision is another failure to ensure due process. The famous appellant judge, the Honorable Judge Henry Friendly, listed the elements of due process in his Law Review article "Some Kind of Hearing" in 1975, and the list includes the "*requirement that the tribunal prepare written findings of fact and reasons for its decision.*"

5 Judge Friendly's entire list of due process has remained influential today and includes **the right to** (1) **an unbiased tribunal (at the top of the**

list), plus (2) notice of the proposed action and the grounds asserted for it, (3) an opportunity to present reasons why the proposed action should not be taken, (4) present evidence, and call witnesses, (5) the right to know opposing evidence, (6)cross-examine adverse witnesses, (7) a decision based exclusively on the evidence presented, (8) an opportunity to be represented by counsel, (9) have the tribunal prepare a record of the evidence presented, (10) have the tribunal prepare written findings of fact and reasons for its decisions, and (11) judicial review.

6. The *right to a hearing* has been part of our legal system since December 15, 1791 and it is fundamental that this right to due process continue. The U.S. Supreme Court needs to protect the *rights of all citizens to an unbiased tribunal.* We cannot abandon this basic right.

B. The decision failed to protect *the right to have a decision based exclusively on evidence presented*, as guaranteed by the due process clause of the 5th and 14th amendments of the U.S. Constitution.

1. This failure by the L.T. to make a decision based exclusively on evidence presented, and DCA's affirmation, radically departs from the accepted and usual course for judicial proceedings.

2. The U.S. Supreme Court said in an opinion in *Webb v. Webb*, 451 U.S. 493, 501 (1981) "... *although*

the States are sovereign entities, they are bound along with their officials, including their judges, by the Constitution and the federal statutory law."
Due process of law is so important to citizens in all states that due process remains the only 'command' mentioned twice in the U.S. Constitution.

3. Today, we have maintained the right of every U.S. citizen to receive due process as one of the fundamental ideas in the U.S. Constitution and the right to have decisions *based exclusively on evidence presented* is so prevalent and recognized, it is not necessary here to list case law supporting it.

4..**In this case:** Petitioner never agreed to waive a hearing or dismiss a case (See Appendix E for what attorneys filed in court). The L.T. based their decision on false statements by attorneys (not evidence), and the DCA still affirmed the decision.

5. The U.S. Supreme Court's supervisory power is needed to reverse this decision so that citizens continue to receive all the due process guaranteed by the 5th and 14th amendments of the U.S. Constitution

C. The decision conflicts with a long-standing U.S. Supreme Court decision, as well as state court decisions concerning validity of orders entered after fraud upon the court occurred.

1. Currently, the U.S. Supreme Court and state courts all say **such orders are void**:

a. The U.S. Supreme court has previously held that

after 'fraud upon the court' occurs, any *orders are like a blank piece of paper* so that the order cannot even be 'vacated' but needs to merely be 'set aside'. *Vallely v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 41 S.Ct. 116 (1920).

b. Examples of state court rulings are *Thomas Stasel v. The American Home Security Corporation*, 362 Ill. 350; 199 N.E. 798 (1935). (Fraud upon the court makes a judgment/order VOID.); *Hobbs v. U.S. Office of Personnel Management*, 485 F.Supp. 456 (M.D. Fla. 1980).(Void judgments are complete nullity and without any legal effect from the beginning); *The People of the State of Illinois v Fred E. Sterling*, 357 Ill. 354; 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); *Allen F. Moore v. Stanley F. Sievers*, 336 Ill. 316; 168 N.E. 259 (1929)("The maxim that fraud vitiates every transaction into which it enters."); *In re Village of Willowbrook*, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything ... including subject matter jurisdiction.").

2. The ability of U.S. citizens to receive due process and get a fair trial would be undermined by allowing orders/judgments based on lies/deceit to prevail and be treated as valid orders, when they are void orders.

a. The U.S. Supreme court has consistently held that the void order is void at all times, does not have to be reversed by a judge, **cannot be made valid by any judge** [*i.e. DCA affirming that it is a correct*

decision and not void does not change the fact that it IS void], nor does it gain validity by the passage of time. The order is void ab initio. *Vallely v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 41 S.Ct. 116 (1920).

b. The DCA cannot affirm a *blank piece of paper*! That leaves the DCA without the option to let a void order prevail by affirming it. After fraud upon the court occurs, that order, according to the U.S. Supreme Court in *Vallely v. Northern Fire & Marine Ins. Co.*, is like a *blank piece of paper* so that the order cannot even be 'vacated' but needs to merely be 'set aside'.

c. In this case, the two orders from that L.T. court after fraud upon the court in case no. 01-GA-033 are void. **The two void orders are:**

(1) The order dismissing the case with prejudice and discharging the guardian, dated 7/7/06. This is the order hidden for months from petitioner and it is void.

(2) The order denying to 'set aside' the 7/7/06 order, dated 1/8/07, was affirmed by the DCA, but it is still void.

3. Remembering that all orders entered after 'fraud upon the court' are void, as is shown above by some case law and a decision by the U.S. Supreme Court, the L.T. judge which entered the two void orders listed above, cannot enter any valid orders, even one to 'set aside' his first order, because <u>all his orders</u> in this case are null and void.

4.What should have happened is that after petitioner filed a new case, THAT judge should have used his *inherent powers* and set aside the void order from the other court, so the new case in HIS course could proceed to be heard. Instead, he is the judge that sent petitioner back to the court where all orders it issues are void. *Hazel-Atlas Glass Co. v. Hartford Empire Co.*, 322 U.S. at 245, S.Ct. 997, 88 L.Ed. 1250 (1944) ("The inherent equity power of the courts to set aside a judgment whenever its enforcement would be manifestly unconscionable because of fraud upon the court.")

5. What should happen now? This Court should grant a writ and after review, use its inherent powers to set aside this void order, and let petitioner's new case proceed to the hearing she is guaranteed by the 5th and 14th amendments to the U.S. Constitution.

D. The decision conflicts with rules regulating state bars throughout the nation.

1. The decision in petitioner's case is setting a precedent that will allow attorneys to run the legal system at their whim, deciding who gets a hearing and who gets their case dismissed with prejudice (rather than letting the client decide when to dismiss their case) without fear of reversal of those decisions, and all at the expense of those citizens who will potentially lose the due process guaranteed in the U.S. Constitution.

2. This is a vast departure from rules regulating state bars across the land. **Case law is abundant** in every state from cases where an attorney is disciplined, and some of these cases were presented to L.T. and DCA by petitioner. Examples from R. Regulating Fla. Bar include:

a. Rule 4-1.2(a) says "A lawyer shall abide by a client's decision whether to settle a matter."

b. Rule 4-1.2(a) says "A lawyer shall abide by a client's decision concerning the objectives of representation."

c. Rule 4-1.4(a)(1) says "A lawyer shall promptly inform the client of any decision."

d. Rule 4-4.1(a) says "A lawyer shall not knowingly make a false statement of material fact or law to a third person."

e. Rule 4-8.4(d) says "A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

3. This Court's supervisory power is needed unless the Court wants the judicial system in the future to allow attorneys (not clients) to decide when to settle, when to dismiss, what the objectives of the case are, and the course to pursue those objectives.

CONCLUSION

It is critical that state court judges and attorneys make decisions that do not violate the U.S. Constitution and which conform to the accepted course of judicial proceedings.

For the reasons above, the petition for a writ of certiorari should be granted.

Respectfully submitted.

Appendix A

This is L.T. Order Which Was Appealed to DCA

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT, IN AND FOR NASSAU COUNTY, FL

Division: B

Janet A. Adams, Plaintiff
v.
Judith A. Goldsmith, Defendant

ORDER DENYING PLAINTIFF'S MOTIONS

Upon review of plaintiff's Motion to Reopen, Motion to Set Aside, Motion to Vacate, or in the alternative, Motion to Change and of the Court file, and the Court being fully advised in the premises, it is

ORDERED AND ADJUDGED:

The motions are denied.

DONE AND ORDERED in Chambers at Nassau County Judicial Annex, Yulee, Nassau County, Florida, this 8th day of January, 2008.

No signature but above the line which says below it
ROBERT M. FOSTER, CIRCUIT JUDGE
is a rectangle that was stamped which says:

ORDER ENTERED **JAN 8 2008**
/s/ ROBERT M. FOSTER

Appendix B

This is DCA Order To Be Reviewed

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DEPOSITION THEREOF IF FILED

Case No.: 1D08-685

Janet A. Adams, Appellant
v.
Judith A. Goldsmith, Appellee

Opinion filed September 29, 2008

An appeal from the Circuit Court for Nassau County, Robert M. Foster, Judge

Janet A. Adams, pro se, Appellant

H. Price Poole, P.A., Fernandina Beach, for Appellee.

PER CURIAM AFFIRMED

BENTON, VAN NORTWICK, AND HAWKES, JJ, CONCUR.

Appendix C

This Order Denies a Rehearing

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida

Janet A. Adams, Appellant/Petitioner
v. Judith A. Goldsmith, Appellee/Respondent
Case No.: 1D08-685
L.T. No.: 2001-GA-033

DATE: **November 6, 2008**

BY ORDER OF THE COURT:

Appellant's motion filed October 14, 2008, for rehearing, certification and written opinion is denied.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served: Janet A. Adams H. Price Poole, Jr.
Hon. John Crawford, Clerk

s/ Jon S. Wheeler, Clerk Seal: District Court of Appeal
State of Florida
Sat Cito Si Recte
First District
FL

Appendix D

NOTE: Clerk's office for District Court of Appeal, 1st District, mistakenly thought Miss Adams was giving notice of appeal to the Florida Supreme Court rather than going directly to the U.S. Supreme Court. She received this:

Supreme Court of Florida
Wednesday, **November 12, 2008**
Case No. SC08-2084
Lower Tribunal No.: 1D08-685

Janet A. Adams, Petitioner
v.
Judith A. Goldsmith, Respondent

It is appearing to the Court that it is without jurisdiction, the Petition for Review is hereby dismissed. See Jenkins v. States, 385, So. 2d 1356 (Fla. 1980).

No mention for rehearing will be entertained by the Court.

s/Thomas D Hall
Clerk, Supreme Court

Seal: Supreme Court of the State of Florida
Sat Cito Si Recte

Appendix E

This is the paper, dated 7/6/06, petitioner's attorney used to deceive the court

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IN THE CIRCUIT COURT
IN AND FOR NASSAU COUNTY, FLORIDA
PROBATE DIVISION

IN RE ESTATE OF HARRY W. ADAMS, Deceased

Case No. 2001-033-GA

VOLUNTARY DISMISSAL, WITH PREJUDICE, OF OBJECTIONS TO THE PETITION FOR DISCHARGE AND FINAL REPORT

Petitioner, JUDITH A. GOLDSMITH, as Guardian of the above estate, alleges:

1. The decedent, HARRY W. ADAMS, died on 12/5/05

2. The Guardian filed a Petition for Discharge of Guardian on January 11, 2006 and filed an Amended Petition fir Discharge of Guardian on January 20, 2006

3. Janet A. Adams filed objections to the Petition for Discharge and Final Report and Accounting on 1/31/06.

4. On June 20, 2006, **the parties settled and resolved between and among themselves** all pending issues in controversy between and among

them, leaving the administration of this guardianship to be completed with all proceedings filed herein to be dismissed with prejudice to the refilling thereof.

5. As part of the Settlement Agreement, all parties have agreed, among other things, as follows:

a. All adversary proceedings filed in this estate will be **dismissed with prejudice** to the refilling thereof; and

b. **All parties agree** to a stipulated order of discharge of guardian.

6. Petitioner, JUDITH A. GOLDSMITH:

a. Voluntarily dismisses the Motion to Strike filed by her, and, further, withdraws and dismisses each and every petition, motion, objection, or other pleading filed by her in any of the proceedings arising from this estate, all with prejudice to the refilling of any of the same, either by her or by any other person.

First page is stamped at the bottom as:

FILED JUL 6 2006 JOHN A. CRAWFORD,
Clerk of the Circuit Court

Marked Exhibit "B:

Second page continues

7 Petitioner, JANET A. ADAMS:

a. **Voluntarily dismisses the Objections** to the Petition for Discharge and Final Report filed by her and, further, **withdraws and dismisses** each and every petition, motion, objection or other pleading filed by her in any of the proceedings arising from this estate, all **with prejudice** to the refilling of any of the same, either by her or by another other person.

8. Petitioners, JUDITH A. GOLDSMITH and JANET A. ADAMS, request that an order be entered discharging JUDITH A. GOLDSMITH as Guardian of this estate because a notice of hearing on the petition **has been waived by all persons** entitled to notice.

WHEREFORE, pursuant to this *Petition,* the Court is requested to:

a. Enter its order discharging JUDITH A. GOLDSMITH as Guardian of this estate.

Under the penalties of perjury, we declare that we have read the foregoing, and the facts alleged are true to the best of our knowledge and belief.

/s/ J. STEPHEN PULLUM,.ESQUIRE
Florida Bar Number: 213993
PULLUM & PULLUM, P.A.
1330 W. Citizens Blvd., Suite 701
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Attorney for Janet A. Adams,
Petitioner

Third page continues

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been made upon Petitioner, Janet A. Adams, by mailing a copy thereof to Petitioner's attorney, Ross Germano, 501 Centre Street, Suite 121, Fernandina Beach, FL 32034 on this 27th day of June, 2006.

/s/ J. STEPHEN PULLUM, ESQUIRE
Florida Bar Number: 213993
PULLUM & PULLUM, P.A.
1330 W. Citizens Blvd., Suite 701
Leesburg, FL 34738 Telephone: (352)728-3060
Facsimile: (352) 728-0003 Attorney for the Estate

This Order issued 7/7/06, became void after 'fraud upon the court' occurred on 7/6/06 and petitioner is asking for this void order to be set aside

IN THE CIRCUIT COURT FOR NASSAU COUNTY
FLORIDA PROBATE DIVISION

In RE Estate of Harry W. Adams, deceased
File No. 03-CP-191 (*which affixed wrong number and opposing attorney pointed out it should 2001-GA-033*)
Division: B

STIPULATED ORDER OF DISCHARGE OF GUARDIAN

On the petition of JUDITH A. GOLDSMITH for discharge as guardian of the property of HARRY W. ADAMS (the Ward), the Court finding that notice of **hearing on the petition has been waived by all persons** entitled to notice, that the guardian has faithfully discharged the duties of guardian, and has rendered a true, complete and final report, it is

ADJUDGED that said guardian is discharged, and the surety on the guardian's bond, if any, is released from further liability.

[Not signed but stamped with rectangle that says]
ORDER ENTERED JUL 07 2006
/s/ ROBERT M. FOSTER

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(2)

Supreme Court, U.S.
FILED
MAY 14 2009
OFFICE OF THE CLERK

No. 08-1005

IN THE

Supreme Court of the United States

Janet A. Adams

Petitioner

v.

Judith A. Goldsmith

Respondent

On Petition For Writ of Certiorari
To The District Court of Appeal, First District,
Tallahassee, Florida

PETITION FOR REHEARING OF PETITION FOR WRIT OF CERTIORARI

Janet A. Adams, Pro Se
2936 N. Kristopher Bend
St. Charles, MO 63303
314-566-7353

ARGUMENT FOR GRANTING REHEARING

The substantial grounds not previously presented, as required by the U.S. Supreme Court Rule 44(2), are:

1. Lawyers are being allowed to decide when to dismiss a case, even without client's knowledge or permission.

2. Two different lawyers are being allowed to amend the U.S. Constitution and remove rights rather than amending the constitution by congress passing a bill and two-thirds of the states ratifying the bill,

Both these substantial grounds will turn the legal system upside down!

A. BRIEF INTRODUCTION TO CASE:

   a. An order was originally obtained by Petitioner's former attorney after he lied and deceived the court (i.e. fraud upon the court) saying Petitioner waived a hearing, withdrew her objections in the case, and agreed to dismiss the case with prejudice. All are lies!

      Case law shows after 'fraud upon the court' occurs, all subsequent orders entered from that court are void, <u>including the order Petitioner's attorney obtained</u> by deceiving the court.

b. CURRENTLY, Respondent's attorney is USING that void order to try to dismiss a new case among the same parties, which would take away Petitioner's rights to due process, essentially amending the U.S. Constitution (without congress involved).

Lawyers are not empowered to amend the Constitution!

c. Petitioner moved the deceived judge to set aside the void order, and motion was denied. It was appealed to DCA, which should have stepped up and used its inherent powers to set aside this void order.

d. The DCA had authority to set aside the void order but refused to do so. And because they gave no written opinion, Petitioner was barred from appealing to the Florida Supreme Court.

B. COURT AUTHORITY TO SET ASIDE:

Court authority is found in Twining v. New Jersey, 211 U.S. 78, 29 S.Ct. 14, 24 (1908) ("Due Process requires that the court which assumes to determine the rights of parties shall have jurisdiction" citing Old Wayne Mut. Life Assoc. v. McDonough, 204 U.S. 8, 27 S. Ct. 236 (1907); Scott v. McNeal, 154 U.S. 34, 14, S. Ct. 1108 (1894); Pennover v. Neff, 95 U.S. 714, 733 (1877).

C. WHAT IS PETITIONER ASKING?

a. Petitioner wants this Court to step up and use its inherent power and set aside this void order.

That action will stop lawyers from amending the U.S. Constitution and taking away due process rights, AND will stop lawyers from deciding whether or not to dismiss a case. Currently client's get to decide whether or not to dismiss a case, **not lawyers**.

b. IF THIS ORDER IS NOT SET ASIDE, then due process dating back to the Magna Carta has essentially been removed from the U.S. Constitution whenever a lawyer decides to either (1) to dismiss a case without client's knowledge or permission, or (2) use a void order to take away someone's rights that are guaranteed by the U.S. Constitution.

D. TURNING THE U.S. JUDICIAL SYSTEM UPSIDE DOWN!

a. Law schools in the future will use this case and teach how an attorney can, at whim, lie to the court that client waived a hearing and agreed to dismiss the case with prejudice, and whenever the judge fails to ask for proof :::poof::: the case is over.

b. The public will lose a way to be made whole when their case is dismissed without their knowledge or permission.

c. Case law and all state rules currently hold that it is the client's decision whether or not to dismiss a case, so all states will need to change their Rules of Professional Conduct, and all the relevant case law (showing it is client's decision to dismiss) will be thrown out the window.

CONCLUSION

This is a pivotal case.

Petitioner asks that her Petition for Writ of Centiorari be reheard.

The U.S. legal system simply cannot allow lawyers to either (a) amend the U.S. Constitution, removing rights, or to (b) decide whether or not a case gets dismissed (it is client's decision).

These changes will be catastrophic and major, to the entire justice system and for all people that use it!

Respectfully submitted,

/s/ Janet A. Adams